

ESTTA Tracking number: **ESTTA238693**

Filing date: **09/24/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	HarvilleHendrix
Granted to Date of previous extension	09/27/2008
Address	134 Churchill Road Tenafly, NJ 07670 UNITED STATES

Attorney information	Chester Rothstein, Esq. Amster, Rothstein & Ebenstein LLP 90 Park Avenue New York, NY 10016 UNITED STATES ptodocket@arelaw.com, crothstein@arelaw.com Phone:212-336-8000
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Applicant Information

Application No	77406005	Publication date	07/29/2008
Opposition Filing Date	09/24/2008	Opposition Period Ends	09/27/2008
Applicants	Dilsaver, Michelle L. 100A 20 Erford Road Lemoyne, PA 17043 UNITED STATES Dilsaver, Gregory C. 100A 20 Erford Rd Lemoyne, PA 17043 UNITED STATES		

Goods/Services Affected by Opposition

Class 044. First Use: 2003/12/12 First Use In Commerce: 2005/03/12
All goods and services in the class are opposed, namely: Psychotherapy and psychotherapy counseling for children and adults in individual and family sessions

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Upon information and belief the subject application was filed in the name of the wrong party and is therefore void. TMEP Sec. 1201.02(c).

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1740264	Application Date	04/29/1991
Registration Date	12/15/1992	Foreign Priority Date	NONE
Word Mark	IMAGO RELATIONSHIP THERAPY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1984/01/01 First Use In Commerce: 1990/01/01 educational services; namely, conducting workshops for professionals in the field of interpersonal relationship counseling		

U.S. Registration No.	2135264	Application Date	04/10/1996
Registration Date	02/10/1998	Foreign Priority Date	NONE
Word Mark	CERTIFIED IMAGO THERAPIST		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class B. First use: First Use: 1981/01/08 First Use In Commerce: 1981/01/08 relationship therapy services		

U.S. Application No.	77124773	Application Date	03/07/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	IMAGO		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1993/00/00 First Use In Commerce: 1993/00/00 MACHINE-READABLE DATA CARRIERS PROVIDED WITH PROGRAMS, DATA, AUDIO AND VIDEO INFORMATION, NAMELY, FLOPPY DISKS, CDs, CD-ROMS, DVDs, ZIP DRIVES, OPTICAL STORAGE DISKS, MAGNETIC AUDIO AND VIDEO TAPES AND CASSETTES AND MAGNETIC DATA CARRIERS, ALL FOR THE REPRODUCTION, STORAGE AND VIEWING OF SOUND, IMAGES, TEXT, DATA AND COMPUTER GENERATED SPECIAL EFFECTS IN THE FIELD OF INTERPERSONAL RELATIONSHIP COUNSELING AND EDUCATIONAL SERVICES</p> <p>Class 016. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 PRINTED MATERIALS, NAMELY BOOKS, WORK BOOKS, INSTRUCTIONAL, AND TEACHING MATERIALS IN THE FIELD OF INTERPERSONAL RELATIONSHIP COUNSELING AND EDUCATIONAL SERVICES</p> <p>Class 041. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 EDUCATIONAL SERVICES, NAMELY, CONDUCTING COURSES OF INSTRUCTION AND WORKSHOPS IN THE FIELD OF INTERPERSONAL RELATIONSHIP COUNSELING; PROVIDING CERTIFICATION LEVELS FOR COUNSELORS AND INSTRUCTORS IN THE FIELD OF INTERPERSONAL</p>		

	RELATIONSHIP COUNSELING
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Related Proceedings	92049287
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Attachments	Notice of Opposition - Harville Hendrix.pdf (5 pages)(216937 bytes) 77124773#TMSN.jpeg (1 page)(bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Chester Rothstein/
Name	Chester Rothstein, Esq.
Date	09/24/2008

**IN THE U.S. PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

*In the matter of U.S. Trademark App. Ser. No. 77/406,005
for the mark IMAGO DEI PSYCHOTHERAPY
in International Class 44
Filed February 26, 2008*

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HARVILLE HENDRIX,		:	
	Opposer,	:	Opposition No.
		:	
	v.	:	
		:	
GREGORY C. DILSAVER,		:	
	Joint-Applicant,	:	
and		:	
		:	
MICHELLE L. DILSAVER, DBA MICHELLE L.		:	
JANIK,		:	
	Joint-Applicant.	:	
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NOTICE OF OPPOSITION

Harville Hendrix, an individual with an address at 134 Churchill Road, Tenafly, NJ 07670 ("Hendrix"), believes he will be damaged by issuance of any Registration which might issue from Application Serial No. 77/406,005 for the mark IMAGO DEI PSYCHOTHERAPY ("the '005 Application"), owned by Gregory C. Dilsaver, an individual with addresses listed in the records of the Patent and Trademark office at both 24 Cook Road, Duncannon, PA 17020 and 20 Erford Road, Lemoyne PA 17043 ("Gregory Dilsaver") and Michelle L. Dilsaver d/b/a Michelle L. Janik, an individual with an

address listed in the records of the Patent and Trademark office at 20 Erford Road, Lemoyne PA 17043 ("Michelle Dilsaver")(Gregory Dilsaver and Michelle Dilsaver shall collectively and individually be referred to herein as Joint-Applicants). The '005 Application seeks registration of the mark IMAGO DEI PSYCHOTHERAPY as applied to:

Psychotherapy and psychotherapy counseling for children and adults in individual and family sessions.

As grounds for opposition of the above identified trademark Application as it relates to its listed services in International Class 44, (the "Subject Application"), Opposer Hendrix, by and through its attorneys, allege as follows:

1. Harville Hendrix, an individual with an address at 134 Churchill Road, Tenaflly, NJ 07670, believes that he will be damaged by the registration of the Subject Application and hereby opposes the same.
2. For over twenty-five years, namely since at least as early as 1981, Hendrix has, *inter alia*, provided therapy and educational services in the United States in the field of interpersonal relationship counseling under the trademark and service mark IMAGO.
3. An introductory overview of Hendrix's IMAGO can be seen at the website www.GettingTheLoveYouWant.com, which can be addressed directly, or automatically linked from such domain names as www.ImagoTherapy.com.
4. Use of the IMAGO mark in the United States in conjunction with therapy and educational services has been used continuously and extensively by Hendrix and his licensees (including a network of Certified Imago Therapists) since its first use and since that time such use has been nationwide and extensive.
5. Hendrix is well known to the relevant public, and his IMAGO mark has become famous and well known as a source of origin of therapy and educational services in the United States in the field of interpersonal relationship counseling.
6. Hendrix is the owner of U.S. Federal Registration No. 1,740,264 for the mark IMAGO RELATIONSHIP THERAPY; and Registration No. 2,135,264 for the mark CERTIFIED IMAGO THERAPIST, both of which are active and incontestable under Section 15 of the Trademark Act.

7. Upon information and belief, Registrant's earliest use in United States' commerce of the mark shown in the Subject Application was no earlier than March 12, 2005. The first use anywhere was no earlier than December 12, 2003. The filing date of the Subject Application was February 26, 2008.
8. Hendrix adopted and used the trademark IMAGO to identify and distinguish his services more than twenty (20) years prior to both (i) the filing date of the Registrant's application to register its mark; and (ii) Registrant's claimed date of first use.
9. Hendrix has filed United States trademark and service mark Application Serial No. 77/124,773 ("the '773 Application") for the mark IMAGO as applied to goods in Class 9 with a date of first use in commerce of at least as early as 1993; goods in Class 16 with a date of first use in commerce of at least as early as 1981; and services in Class 41 with a date of first use in commerce of at least as early as 1981.
10. The '773 Application is currently suspended pending disposition of Hendrix's pending Cancellation No. 92049287 for the mark IMAGO DEI PSYCHOTHERAPY AND IMAGO DEI CLINIC(S): RESTORING THE IMAGE OF GOD owned by Greg Dilsaver.
11. Joint-Applicant's Subject Application, if it matures to a Registration, would be false *prima facie* evidence of Joint-Applicant's right to exclusively use the subject trademark in connection with the services listed in the Subject Application, and as such, the continued existence of Joint-Applicant's Subject Application is causing damage to Hendrix based on Hendrix's long prior use of the mark IMAGO.
12. The term IMAGO DEI is the dominant portion of the mark of the Subject Application.
13. The services of the Subject Application and Hendrix's services both relate to interpersonal and relationship counseling, and are related services.
14. Based on the foregoing, the registration of the mark of the Subject Application by Applicant is likely to cause confusion and mistake in the minds of the purchasing public, and, in particular, will, upon information and belief, tend to falsely create the impression that the mark of the Subject Application is owned by Applicant and/or that the services offered by Hendrix violate Applicant's rights.
15. Accordingly, it is Hendrix's belief that if Joint-Applicants are granted the registration for the goods opposed herein, Hendrix will suffer irreparable harm and damage.

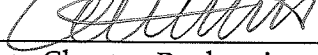
16. Hendrix intends to file a Motion to Consolidate the instant Opposition and Cancellation No. 92049287 as soon as practicable.
17. Upon information and belief, Michelle L. Dilsaver, d/b/a Michelle L. Janik is not a joint owner of the '005 Application because she is not listed as an owner of the Registration for IMAGO DEI PSYCHOTHERAPY AND IMAGO DEI CLINIC(S): RESTORING THE IMAGE OF GOD owned by Greg Dilsaver which is the subject of Cancellation No. 92049287.
18. Upon information and belief, the '005 Application is void since it incorrectly lists Michelle L. Dilsaver, d/b/a Michelle L. Janik as a joint owner of the Application. See T.M.E.P. § 1201.02(c) ("An application filed in the name of the wrong party is void and cannot be corrected by amendment").

WHEREFORE, Hendrix requests that the '005 Application be denied registration in its entirety.

Respectfully submitted,

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Dated: September 24, 2008

By 
Chester Rothstein
Holly Pekowsky

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is one of the attorneys for Opposer in the above-captioned Opposition proceeding and that on the date which appears below, caused a copy of the foregoing NOTICE OF OPPOSITION to be served on Applicants by Federal Express addressed as follows:

Gregory C. Dilsaver
100A 20 Erford Rd
Lemoyne, PA 17043

Gregory C. Dilsaver
24 Cook Road
Duncannon, PA 17020

Michelle L. Dilsaver
DBA Michelle L. Janik
100A 20 Erford Road
Lemoyne, PA 17043



Holly Pekowsky

Dated: New York, New York
September 24, 2008